

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Michael Foley,

Plaintiff

v.

Kurt Graham, et al.,

Defendants

Case No.: 2:16-cv-01871-JAD-VCF

Ninth Circuit Case No.: 21-15024

**Order re: *In Forma Pauperis* Status
on Appeal**

[ECF No. 75]

The United States Court of Appeals for the Ninth Circuit referred this matter back to this court for the limited purpose of determining whether *in forma pauperis* status should continue for this appeal.¹ The decision to continue such status turns on whether any claim is frivolous, for “[i]f at least one issue or claim is found to be non-frivolous, leave to proceed in forma pauperis on appeal must be granted for the case as a whole.”²

In this civil-rights case, plaintiff Michael Foley sued Clark County, Nevada, and several of its employees in their individual and official capacities, a family-court hearing master, his ex-wife, and the Las Vegas Metropolitan Police department, for his arrest in 2014 for unpaid child support. After several rounds of screening and dismissal, Foley was given another chance to state a viable claim for relief against the remaining defendant in his official capacities only.³ I found that Foley filed an amended complaint that not only failed to allege a plausible excessive-force claim, but violated the express terms of this court’s previous order.⁴ So I granted the

¹ ECF No. 75.

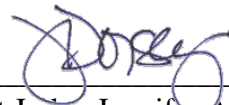
² *Hooker v. Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002).

³ ECF No. 63.

⁴ ECF No. 71 at 1–2.

1 remaining defendant's motion to dismiss and dismissed the case with prejudice.⁵ Because the
2 appeal from that decision is frivolous and not taken in good faith, IT IS HEREBY ORDERED
3 THAT the district court finds that *in forma pauperis* status should not continue on appeal.

4 The Clerk of Court is directed to **SEND a copy of this order to the Clerk of the United**
5 **States Court of Appeals for Case No. 21-15024.**

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8 U.S. District Judge Jennifer A. Dorsey
9 February 1, 2021
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⁵ *Id.* at 3.